

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

ANTHONY ROY HARRISON, Petitioner, vs. BRENT FLUKE, Warden of the Mike Durfee State Prison, Respondent.	CIV. 21-5041-JLV ORDER
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Petitioner Anthony Roy Harrison, an inmate at the Mike Durfee State Prison in Springfield, South Dakota, appearing *pro se*, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Docket 1). Respondent filed a motion to dismiss the petition. (Docket 10). Pursuant to a standing order of April 1, 2018, the matter was referred to United States Magistrate Judge Daneta Wollmann pursuant to 28 U.S.C. § 636(b)(1)(B). The magistrate judge issued a report recommending the court grant the respondent's motion and dismiss Mr. Harrison's petition with prejudice. (Docket 15 at p. 10). No objections were filed to the report and recommendation ("R&R") and the time for doing so has expired.¹ The court reviewed the report and recommendation and finds it is an appropriate resolution of the matters before the court. Accordingly, it is

ORDERED that the report and recommendation (Docket 15) is adopted.

¹Mr. Harrison continues to file legal memoranda and objections to the respondent's motion. See Dockets 6, 16, 17 & 19. These submissions advocate the same arguments presented to the magistrate judge and do not address the R&R or constitute objections to the R&R. See 28 U.S.C. § 636(b)(1).

IT IS FURTHER ORDERED that the respondent's motion to substitute party and remove the Attorney General of the State of South Dakota (Docket 8) is granted.

IT IS FURTHER ORDERED that the respondent's motion (Docket 10) is granted.

IT IS FURTHER ORDERED that Mr. Harrison's petition (Docket 1) is dismissed with prejudice.

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 2253(c) and Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, the court declines to issue a certificate of appealability. Although the court declines to issue a certificate of appealability, Mr. Harrison may timely seek a certificate of appealability from the United States Court of Appeals for the Eighth Circuit under Fed. R. App. P. 22. See Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts and Fed. R. App. P. 22.

Dated March 31, 2022.

BY THE COURT:



JEFFREY L. VIKEN
UNITED STATES DISTRICT JUDGE